WD2239.B490.

App.F.IX-4]

1924. ( Journal ) File No. 184-24

Serial Nos. 1-4

*Previous References.*
Mag 624-04 -
" 531-18-8-29.
" 511-21-1-2

*Later references.*
Jr
" 126-28-1-3
" 324-29-1-2

# GENERAL & REVENUE SECRETARIAT

*Serial Nos.* 4

**Part B for** June 1925

SUBJECT

Recommends sanction to the acquisition of 7½ Cawdies of land out of S. No. 45 of Venkatapura Village, Bowringpet Taluq for the formation of a road for conducting the car procession of Sri Venkataramana Swamy temple at Guddahalli.

No 1797 dated 15-6-25 — To the Mag. Conr.

The land cannot be acquired under the Land Acquisition Regulation

G. R S. 11] 1924

GENERAL AND REVENUE SECRETARIAT.

Inwards

NOTES.

File No. 184/1924

FILE HEADING.

Acquisition of lands for the purpose of taking the car in procession of Sri Venkatarama Swamy Temple at Suttahalli, Bowringpet Taluk.

From

The Inam Commissioner

Letter No. 729 Dated 29.12.24 Received 2.1.25

| Diary No. | Enclosures | Spare Copies | Serial No. |
|---|---|---|---|
| 1075 | 2 | | 1 |

BRIEF ABSTRACT OF LETTER.

Submits for sanction declaration statement for the acquisition of 1½ guntas of land for the purpose of taking the car of the said deity.

NOTES AND ORDERS.

B

1) Draft order sanctioning is submitted.

2) The Khatedar of no. 45 is one Panchangi Seenambhatta who is willing to part with the land on payment of compensation, for the benefit of the inst.

NOTES—First Sheet. AG 16.1.25 [illegible] 16.1.25 [illegible] of 16.1.25.

G. R. S. III-2.

General and Revenue Secretariat. | File No. 184 of 19 24

Serial No.

a)
Dft. Submtd. as directed.
AH
29.1.25

5) Dr appl
30/1/25

b)
763 2nd member)
30/1/25

7) The circumstances necessitating the acqn have been explained in detail in the D.O. & the N.O. in the letter. ~~that~~ It was in the temple managing committee's road for the car festivals; hence the acqn became very necessary.

8) It is noted on the spot that the only way to by reaching the road

2
87
1/7
D. 31/1/25

9) It is reported that the temple car has now to pass through the fields in question

10) At the time of the Asst. Supdt's inspection, the Senates represented the circumstances

NOTE—Contn. sheet

G. R. S. III-2.

General and Revenue Secretariat. | Mwz. File No. 181 of 1924

Serial No.

was that officer directed the Amildar to submit a report with a proposition Statement to the Dy. Comr. who later moved the acctt. Staff for order of Secretr.

MJ 3.2.25 8/2/25

1) Enquire since when the Car is going through the hands in question, and what was being done before, and if there is any objection on the part of the owner, which was not raised before

D 4.2.25

2) Dft - enquiry Secretr

MJ 4.2.25 4-2-25

3) Issue D 9.2.25

2 To the Mwz. Comm. No. No. 1222 dt. 18.2.25. Enquiries since when the car has been going through the hands, what was being done before and why any objection on the part of the owner was not raised before.

NOTE—Contn. sheet

Muzrai Secretariat | Muz. File No. 184 of 1925.

Serial No

From, The Muz. Comr.

Letter no. C. 729 dt 30/4/25.

Submits full information on the points raised in sl. 2.

(4) Re the member's queries raised in para 4 of the office note, it is submitted that the case is being taken through S. No. 45 of Venkatapura Village, Bethamangala Hobli, for the last of 15 or 20 years. That the owners allows the cart to pass on the occasion, and that there is always some danger of the cart capsizing as the soil of this land on which wet crop is grown is very soft, & avoid which it is proposed to acquire the portion required for the road and lay out a pucca road fit for the cart. & run safely. It is further reported

NOTE—Contn sheet

WD 0561 - GPB—3750—1 8 22

Muzrai Secretariat | Muz. File No. 184 of 192 4

Serial No.

That a formal acquisition is necessitated by the fact that all of the 3 hissedars to the land, two are willing to surrender their rights, and the whereabouts of the 3rd are not known.

Submitted for orders.

AM 7.5.1925. (15) The acquisition of the land in question may be sanctioned under the circumstances brought out by the Hon'ble Chief Secy. - Draft order is submitted for appl. & orders.

[illegible] 8.5.25

Rev. Secy)

[illegible] the Commissioner is pleased to [illegible] the [illegible] of the temple - & not out of [illegible] is the legal [illegible] of A.G. [illegible]

NOTE—Contn sheet

WD 0561—GPB—9750—1 8 22

[illegible] 11-5-25

and Revenue Secretariat. File No. 184 of 19 24

Serial No.

under L. A. Regn., of S. No. 4 of Vadavanapalya, Nagadi Taluk, for the improvement of Sri Someswara Swamy temple at Nagadi, the cost being met from temple funds. (vide order No. 1437-9 dy 9-10-1922)

(3) Mez. 7. 424 of 1904-05

18) This relates to the acqn under L. A. Regn. of some houses for the improvement of the chattram at Haribar, the cost being met from chattram funds..

AY 12.5.1925.

12/5/25

19) 20 5-25.

Rev. Secy.

20) Kindly see in which G.O. 6, of 1st Chapter of Regn.

The cost of acquisition being proposed to be met out of temple funds, the acquisition will not be legal. It does not appear that this point has been

NOTE—Contn. Sheet

8

G R.S. III-2]

File No. 179 of 19 0

Serial No.

Contd

20/5

487

20/5

487

21/d

20/5

General and Revenue Secretariat.

Govt. File No. 1871 of 1924

Serial No.

22) The Validity of acquisition of land under the Land Acquisition Regulation depends upon whether,

Secs 4 & 6 (1) it is acquired for a 'public purpose'

Secs 6 & 40 (2) it is acquired for a Company, which is intended to serve Some public purpose

(3) Compensation to the owner is paid by the Company or out of public ~~funds~~ revenues partly or wholly or out of Some fund Controlled or managed by a local authority

There is no definition of 'a Public purpose' in the Regulation, nor is there any limitation regarding what is likely to prove useful to the public. The decision in "Ezra Vs Secretary of State", would leave these matters absolutely to the discretion of the Govt. The wishes of the owner are wholly irrelevant and his objections are limited to the amount of Compensation and matters connected therewith when the Govt declare that any land is needed for a public purpose this Conclusive under Cl (3) of Sec 6 But our Chief Court is inclined to the view that the question whether the purpose for which land is acquired is a 'public' purpose may be gone into by Courts. Before the declaration is notified, it is better to Consider whether the acquisition in this case is for a public

XXX Cal 36

XXV Mys. C. Rept 228

purpose. The land is required for a road not for the use of the public, but for the safety of the car of the idol, when there is a car-festival, which can come off only occasionally. Whether this is a public purpose is for consideration. If not so declare, the declaration may be binding.

Serial No.

(4) Secondly, the provisions of the Regulation and the procedure laid down therein must be strictly observed. Otherwise the proceedings will be vitiated. Herein comes the force of the proviso to Sec 6 which lays down that no declaration can be made unless the compensation is paid out of public revenues or funds managed by local authorities. This proviso is in fact the test of a public purpose. If compensation is not paid out of the sources indicated above, the purpose is not a public purpose, and the land cannot be acquired. In the case in question, compensation is to be paid out of temple-funds (i.e.) not from public revenues, either wholly or partly. Whether the temple-funds are funds controlled or managed by a 'local authority' is the next question. 'Local authority' has been defined in the general clauses Regulation 1899 to mean a municipal committee, district-board or other authority legally entitled to, or entrusted by Govt with, the control or management of a municipal or local fund. Temple-funds are not municipal funds and

XXIV cal 470 cited with approval in XXV Mys CCR 228

this only by stretch of imagination and violence to the usual interpretation, if at all, that they can be brought under local funds.

25) It may be objected that the Land Acquisition Regulation was earlier in date (1894) to the General Clauses Regulation (1899) and that 'local authority' in the earlier Regulation may have been used in a different sense. Even if the later Regulation was not there, we would have turned to the Br. Indian Act for a definition, which is the same, and followed it. The later Regulation defines the term and in such cases the definition applies to the earlier regulations unless an exception is made, according to the rules of interpretation.

26) Several precedents have been put up in which acquisition has been made under similar circumstances, though not quite under the same conditions. It is found however, that except in one case, the legality or otherwise of the acquisition was not considered at all. In the one case where it was raised, the Secy has not taken legal opinion, but has disposed of the matter by stating that the institution is a municipal institution, and the acquisition must therefore be for a public purpose and valid. Unless

Serial No.

There is a special provision in the Muzzai Regulation (there is none so far as I can see) to make the Land Acquisition Regulation applicable to Muzzai institutions, action cannot be taken under the latter Regulation except in cases which are covered by the ~~Regd~~ Regulation itself. In example in Br India the Land Acquisition Regulation has been made applicable for the preservation of Ancient monuments (to quote a similar case) by Secs 10 to 21 of Act VII of 1904 Similarly for Canals, Drainage, Embankments, Municipalities Telegraphs &c by the respective Acts dealing with these matters.

2) The view taken by the Rev. Secretary appears therefore to be quite sound

I & E Secy

639/27/5

Revs

Secy 27/5

3) [illegible] may be kept on record & submitted for [illegible]

28/5

4) Mr. Sinclair

Revs. 30.5.25.

30/5

Revs. Secy

3.6.25

4/6

1st Mr

69/5-6

30/5/25

1st Mr 31) 7 June 9.6.25

NOTE—Contn Sheet

General and Revenue Secretariat.

Mwz. File No. 184 of 1924.

| Serial No. | |
|---|---|
| 4 | To the Mwzrai Comm^r. No. 1797 d. 15.6.25. States that the land cannot be acquired under the Land Acquisition Regulation as the purpose for which it is wanted is not a public purpose, etc., |

NOTE—Contn. Sheet

File No. of 19 General and Revenue Secretariat.

| Serial No. | |
|---|---|
| | |

NOTE—Contn. Sheet

No. C 729/22-23 Office of the Muzrai Commissioner in Mysore,
one one with one file Dated Bangalore, 23rd December 1924.
29th

From

K. Chandy, Esquire., B.A.,
Muzrai Commissioner in Mysore,
Bangalore.

To

K. V. Anantaraman, Esquire., B.A.,
Secretary to the Government of
His Highness the Mahraja of Mysore,
Revenue Department.

Dno 1075
Muz. 184-24-1.

Sir,

In submitting herewith copy of letter No.R.O.C.2069/22-23 dated the 15th instant received from the Deputy Commissioner, Kolar District, regarding the acquisition of 7½ guntas of land for the road for conducting the car of the Sri Venkatramanaswami temple at Guttahalli, Bowringpet Taluk, I have the honor to request you to kindly sanction the declaration statement received from the Deputy Commissioner and to forward the same for publication in the Gazette.

The enclosures received with the Deputy Commissioner's letter referred to above are herewith submitted for perusal and kind return.

I have the honor to be,
Sir,
Your most obedient servant,

K. Chandy
Muzrai Commissioner.

KSR.

DO. Secy. Sanctioning,
to Submitted.
15.1.25

Letter No.R.O.C.No.2069/22-23 dated 15th December 1924 from The Deputy Commissioner, Kolar District to the Muzrai Commissioner in Mysore.

---

"In forwarding herewith declaration statements for an extent of 7½ guntas of land out of S.No.45 of Venkatapura village, Bethamangala Hobli, Bowringpet Taluk, for the purpose of taking the car in procession of Sri Venkataramanaswami temple during the jatra and other feasts, I have the honor to request you to be so good as to obtain the sanction of Government to the acquisition of the land and transmit the declaration statement to the Compiler, for publication in the Gazette.

2. A sum of Rs.20/- may be provided to meet the cost of the acquisition from the temple funds.

3. A sum of Rs.18,074-13-10 is reported to be at the credit of the Institution.

4. The Sub-Division Officer, Kolar, may be authorised to take order for the acquisition of the land under the land Acquisition Regulation.

5. Thevernacular file is herewith sent."

"Copy"

30/12/[illegible]

for Muzral Commissioner.

G. R. S. VI- G-32] B50—WD 0527

SUBJECT

*Diary No of letter replied to*

General and Revenue Secretariat

( )

*, the* *192* .

Date of issue 18-2-28

Signed by Mr Ramaiya

Section Mog.

File No. 18-20.

Serial No. 2..

No. 1222 Enclosure one file.

To

The Asst. Com. in Mysore.

Sir,

Adverting to your letter no. C.729 dy 29th Dec 1926 in the matter of the acquisition of 7½ Guntas of land for the road for conducting the Car of Sri Venkataramana Swamy temple at Gottebora, Bommenpet Taluk, I am directed to enquire since when the Car is going through the land in question and what was being done before and if there is now any objection on the part of the owner ~~and~~ why it was not

over

/8

raised before.

(2) The ends. are returned for ref. & re-subn.

I have clo.

Dy/r Reg. Secretary.

4/12/28

41194

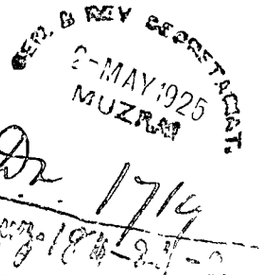
No. C 729/Mu.3
one file

Muzrai
OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE.
*Bangalore, 30th April 1925.*

OM

C.S.Palasundaram Iyer, Esq., B.A.,
Muzrai
COMMISSIONER IN MYSORE.

Bangalore.




THE SECRETARY TO THE GOVERNMENT OF
HIS HIGHNESS THE MAHARAJA OF MYSORE
.....Revenue..... DEPARTMENT.

AV 2/5

SIR,

With reference to your letter No.1222/Muz.184-24-2 dated the 18th February 1925 enquiring about the land to be acquired for the purpose of conducting the car of the Sri Venkataramanaswami temple at Kuttahalli Powringpet Taluk, I have the honor to forward herewith -- copy of letter No.R.O.C.2069/24-25 dated the 18th instant received - from the Deputy Commissioner Kolar District stating that the car is being taken through S.No.45 of Venkatapura village Pethamangala Hobli for the last 15 or 20 years, that the owner allows the car to pass on the occasion. It is reported however that there is always some danger of the car capsizing as the soil of this land on which wet - crop is grown is very soft to avoid which it is proposed to acquire the portion required for the road and layout a pucca road fit for - the car to run safely.

2. It is further reported that a formal acquisition is necessitated by the fact that out of the three sharers to the land two are willing to surrender their rights free and it is not possible to obtain the ----- consent of the third as his whereabouts are not known. The cost of acquisition of his share is estimated at Rs.20/-.

The recommendation of the Deputy Commissioner may kindly --- sanctioned.

The Vernacular records and declaration statement are herewith --

2o

herewith submitted.

I have the honor to be,

Sir,

Your most obedient servant,

C S Balasundaramudaliyar
Muzrai Commissioner.

KSR.

Letter No.R.O.C.2069/22-23 dated 15/16th April 1925 from the --- Commissioner, Kolar District to the Muzrai Commissioner in Mysore

- - - - - -

"With reference to your letter No.C.729/24-25 dated the 24th February 1925, re the acquisition of 7½ guntas of land for laying out a -- road for the passage for the car of the Sri Venkataramanaswami temple at Guttahalli, Bowringpet Taluk, I have the honor to state that the Car is reported to be passing through the land in question for the last 15 to 20 years. A good road for car has already been opened and the small -- extent intended to be acquired will complete the road already opened. This being an occupied wet land, the soil is soft as wet crops are being raised thereon. The Car is being allowed to pass for the occasion -- through this land but on account of the softness of the soil, the possibility of the car, capsizing at any time always exists. To avoid such serious accidents to the car and danger to the public, it is proposed to acquire this piece of land for laying out a suitable road and to make it it for the car to pass.

2. It is reported that there are three hissedars for this land, two of whom are willing to part with it without any compensation, while the 3rd

3rd is absent and its consent could not be taken due to the fact that his whereabouts are not known. A valuation mahazar has therefore been drawn up in this case for the amount of compensation payable to the third nissedar if he should claim it. The cost of the acquisition will come up to Rs.20/- only.

3. In these circumstances, I recommend that early sanction of Government may kindly be obtained for the formal acquisition of the land in --- question.

4. The entire file ending with Kowringpet Amildar's report No.228 --- dated 21-3-25 is enclosed herein."

"C o p y"

2dc— 5 30/4/25 —

for Muzrai Commissioner.

BE

JECT.....

.....

.....

Section Mang.

File No. 186-29.

Serial No. 50.

*Diary No of letter replied to*

No. 1747
acknd.

General and Revenue Secretariat

( )

*, the* *192*

To The Inez. Com^r

Date of issue 15

Signed by

Sir,

Adverting to correspondence ending with your letter No. C. 729 dt 30th April 25 recommending sanction to the acquisition of 1½ Guntas of land out of S. No. 45 of Venkatapuram Village, Bowringpet Taluk, for the formation of a road for carrying the car of Sree Venkata-Ramana swamy temple at Gottahalli, in the said Taluk, the [illegible] of

List of enclosures

Copied by

Examined by

over

24

acquisition being met from the amount at the credit of the vision.

I am directed to invite reference to Sec. 6, cl 1 of the L. A. Reg$^{n}$ and to state that as the cost of acquisition is to be met from the temple funds, the acquisition will not be legal.

(2) The records are herewith returned.

I have etc

Rup

Rev Secretary

to state that the land cannot be acquired under the Land Acquisition Regulation, as the purpose for which it is wanted is not a public purpose. And as the compensation is to be paid wholly or partly out of public revenues or some fund controlled or managed by a local ~~body~~ authority, ~~it is necessary that~~ the Govt. ~~should~~ request the Commissioner to have an [illegible]